

# BEFORE THE TENNESSEE EMERGENCY COMMUNICATIONS BOARD

Nashville, Tennessee

February 28, 2005

IN RE: RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF MOUNTAIN CITY, TENNESSEE, REQUESTING REVIEW OF A DECISION OF THE BOARD OF DIRECTORS OF THE JOHNSON COUNTY EMERGENCY COMMUNICATIONS BOARD PURSUANT TO TENN. CODE ANN. § 7-86-312

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## ORDER MODIFYING DECISION

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This matter came before the Tennessee Emergency Communications Board ("Board" or "TECB") at the request of the Johnson County Emergency Communications District ("District" or "ECD"), during a public meeting convened on January 13, 2005.

### Background

This matter arose after the Board of Mayor and Aldermen of the Town of Mountain City adopted a resolution pursuant to Tenn. Code Ann. § 7-86-312 requesting the Board to review a decision of the Board of Directors of the Johnson County Emergency Communications District ("ECD") to terminate the 911 dispatching services the ECD was providing to Mountain City. Descriptions of the underlying dispute between Mountain City and the ECD and the Board's subsequent deliberations on this matter are memorialized in the *Interim Order* issued on March 31, 2004, the *Final Order*, issued on June 9, 2004 and the *Order Granting Petition for Reconsideration*, issued on October 1, 2004.<sup>1</sup>

In its *Order Granting Petition for Reconsideration*, the Board issued the following directives:

Johnson County ECD was directed to continue to dispatch emergency calls for Mountain City;

2. Mountain City was directed to select one (1) of the following options:

- (a) Continue its contribution of \$60,000 per annum to the ECD for dispatching services;
- (b) Establish its own dispatching services for the citizens of Mountain City within a reasonable time, with the ECD utilizing the transfer method with regard to calls from Mountain City; or

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<sup>1</sup> These Orders are available on the TECB website: <http://www.state.tn.us/commerce/911>.

- (c) Continue to pay, pro rata, the \$60,000 annual contribution to the ECD while reliable, system-generated call statistics are obtained, after which the parties will participate in mediation with a certified mediator.

3. Mountain City was directed to notify the Board of the option it has selected no later than forty-five (45) calendar days from September 10, 2004.

The record shows that Mountain City did not select any of the options proposed by the Board. Instead, on October 15, 2004, Mountain City offered to pay the ECD the higher of \$25,000 or 15% of the District's budget (after deducting the contribution of the ECD) if the ECD would agree to dispatch the city's Police, Fire, Public Works, Water and Sewer services and Animal Control.<sup>2</sup> This agreement was contingent upon the County's consent to pay 85% of the District's budget (after deducting the ECD's contribution). The agreement was also contingent upon a restructuring of the membership and terms of the District Board of Directors, which included provisions inconsistent with Tenn. Code Ann. § 7-86-105(c).<sup>3</sup> The ECD did not respond to this offer.

The city made no contributions to the ECD after the September 10 TECB meeting. Consistent with the TECB's *Order Granting Petition for Reconsideration*, the ECD continued to dispatch the city's emergency calls.

On January 10, 2005, the ECD Board of Directors convened a public meeting to discuss the District's grim financial situation. During this meeting, the ECD Board of Directors considered an offer by the Mayor of Mountain City to pay \$25,000 for one year in return for dispatching of the city's water and sewage and public works calls by the ECD. In addition, the Board of Directors voted to enter into negotiations with the city with regard to the amount of funds the city would contribute to the operation of the ECD for the dispatching of emergency services. The proposed parties to the negotiations were District Director Eugene Campbell, City Recorder Terry Reese, City Accountant Peggy Horn and the City and County Mayors. A majority of the Board of Directors decided to inquire of the TECB whether accepting such an offer would contravene the TECB's prior directives in this matter. A majority of the Board of Directors also voted to request the TECB to increase the emergency telephone service charge on landlines in Johnson County to the statutory maximum of \$1.50 for residential lines and \$3.00 for business lines.<sup>4</sup>

#### **The January 13, 2005 TECB Meeting**

During the TECB's January 13, 2005 meeting, District Chairman Randy Stewart and Director Eugene Campbell reported on the January 10 meeting of the ECD Board of

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<sup>2</sup> The percentage of the ECD's budget was to be adjusted after each U.S. census to reflect the proportion of town residents to the total population of the County.

<sup>3</sup> The inconsistent provisions included allowing *ex officio* members to serve so long as they held office. In addition, *ex officio* members were permitted to designate any person to serve on the Board in their absence. Under the agreement, the designees could serve so long as the *ex officio* member held office and consented to the designation. Compare Tenn. Code Ann. § 7-86-105(b)(6) (stating that the terms, remuneration and duties stated in subsection (c)-(i) shall apply to any board of directors).

<sup>4</sup> During the May 27, 2004 meeting, the TECB had approved the ECD's request to set the service charge at \$1.30 for residential lines. At the ECD's request, the service charge on business lines remained unchanged at \$2.00.

Directors. Chairman Stewart noted his concerns about the ECD's precarious financial situation and its continuing controversy with Mountain City. He stated that the ECD Board of Directors had voted to request the TECB to authorize it to accept an offer from Mountain City of \$25,000 to continue dispatching the city's water and sewage and to enter into negotiations with regard to the city's contribution for dispatching emergency communications. Eugene Campbell relayed the ECD Board's decision to ask the TECB for an increase to the service charge in Johnson County to the statutory maximum.

These requests generated much discussion. It was noted that consideration of the ECD's rate increase request was not improper inasmuch as the Board had continuing jurisdiction over this matter pursuant to Tenn. Code Ann. § 7-86-312, the ECD had just completed the formal rate increase application process and received a rate increase in late May 2004, there were no new documents to be added to the application and the ECD was clearly facing financial problems. It was also noted that the TECB would much prefer for the parties themselves to work out a local solution to these local problems.

At the conclusion of deliberations, the Board unanimously voted to increase the service charge as requested, raising the residential rate to \$1.50 per line and business rate to \$3.00, subject to reconsideration should legislative changes to the state funding structure occur after completion of the TACIR study in 2006, and in any event, until a sunset date of June 30, 2006. The Board also authorized the ECD to enter into negotiations with Mountain City. Moreover, the Board offered to fund mediation between the ECD, Mountain City and Johnson County if the parties agreed to participate. The Board directed General Counsel to select the mediator. The parties were directed to memorialize in a written interlocal agreement any agreement reached in the mediation.<sup>5</sup> In addition, the TECB withdrew its order requiring the ECD to continue emergency dispatching to Mountain City on the condition that, should the ECD decide to cease such dispatching, Mountain City would be given a reasonable period of time to establish its own dispatching, after which the ECD could utilize the transfer method as to Mountain City's 911 calls. The Board directed the ECD to consult with the TECB Technical Consultant with regard to determining such reasonable time to establish emergency dispatching.

On January 21, 2005, the TECB Executive Director sent a letter to the Mayors of the City and County and the ECD Chairman and Director inviting them to participate in mediation at the Board's expense. The recipients of the letter were requested to inform the Board of their decision on whether to participate in mediation by February 6, 2005.

**IT IS HEREBY ORDERED THAT:**

- 1 The emergency telephone service charge in Johnson County shall be adjusted to \$1.50 per line for residential classification and \$3.00 per line for business

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<sup>5</sup> TECB Policy No. 25 states:

Effective August 1, 2004, all agreements or arrangements between an emergency communications district and another governmental entity in which facilities, resources and/or income of any kind are shared, contributed or obtained shall be memorialized in written interlocal agreements and adopted by the board of directors of the local emergency communications district before the implementation of such an agreement.

classifications, subject to reconsideration should legislative changes to the state funding structure occur after completion of the TACIR study in 2006, and in any event, until June 30, 2006, at which time the increase shall revert back to the rate established by Tenn. Code Ann. § 7-86-108(a)(1)(A);<sup>6</sup>

2. The ECD is authorized and encouraged to participate in mediation or negotiations with Mountain City related to the operations, administration and/or funding of the ECD;
3. Should representatives of the ECD, Mountain City and Johnson County desire to participate in mediation related to the operations, administration and/or funding of the ECD, the TECB shall fund the mediation;
4. Should the above mentioned parties agree to participate in mediation, General Counsel is directed to select the mediator;
5. Should the parties to the mediation, if any, reach an agreement related to the operation, administration or funding of the ECD, such agreement shall be memorialized in a written interlocal agreement;
6. The Order Granting Petition for Reconsideration issued on October 1, 2004, which required the ECD to continue dispatching emergency calls for Mountain City, is hereby withdrawn on the condition that, should the ECD decide to cease such dispatching, the ECD shall provide Mountain City a reasonable period of time to establish its own emergency dispatching service, after which the ECD may utilize the transfer method as to Mountain City's 911 calls;
7. The ECD shall consult with the TECB Technical Consultant with regard to determining such reasonable time to establish emergency dispatching.

This 28<sup>th</sup> day of February, 2005.

Randy Porter w/permission, hd  
Randy Porter, Chairman

Wanda Moody w/permission, hd  
Wanda Moody, Vice Chairman

Charles Bilbrey w/permission, hd  
Charles Bilbrey, Board Member

<sup>6</sup> See Tenn. Code Ann. § 7-86-108(a)(1)(A) (setting the service charge at an amount not to exceed sixty-five cents (65¢) per month for residential-classification users and not to exceed two dollars (\$2.00) per month for business classification users and limiting the imposition of the service charge to no more than one hundred (100) lines per service user per location).

<sup>7</sup> Mr. Beehan was unable to attend the Board meeting.

Katrina Cobb w/ permission, hd  
Katrina Cobb, Board Member

Ike Lowry w/ permission, hd  
Ike Lowry, Board Member

Freddie Rich w/ permission, hd  
Freddie Rich, Board Member

Mike Taylor w/ permission, hd  
Mike Taylor, Board Member

Johnny Vickers w/ permission, hd  
Johnny Vickers, Board Member